

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION

No. 2:12-md-02323 (AB)

MDL No. 2323

THIS DOCUMENT RELATES TO:

SHORT FORM COMPLAINT

Second Amended Master Administrative Long-  
Form Complaint against Riddell Defendants and  
*Gay, et al. v. National Football League, et al.*,  
No. 2:12-cv-04573-AB

IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION

JURY TRIAL DEMANDED

**SHORT FORM COMPLAINT AGAINST RIDDELL DEFENDANTS**

1. Plaintiff Sean Smith brings this civil action as a related action in the matter entitled IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION, MDL No. 2323.

2. Plaintiff is filing this Short Form Complaint against the Riddell Defendants as required by this Court's Case Management Order ECF No. 8472, filed October 24, 2017.

3. Plaintiff continues to maintain claims against Riddell Defendants after a Class Action Settlement was entered into between the NFL Defendants and certain Plaintiffs.

4. Plaintiff incorporates by reference the allegations (as designated below) of the Second Amended Master Administrative Long-Form Complaint Against Riddell Defendants, as is fully set forth at length in this Short Form Complaint.

5. ~~[Fill in if applicable] Plaintiff is filing this case in a representative capacity as the~~  
~~\_\_\_\_\_ of \_\_\_\_\_, having been duly appointed as the \_\_\_\_\_ by the Court of~~  
~~\_\_\_\_\_. (Cross out sentence below if not applicable.) Copies of the Letters of~~

~~Administration/Letters Testamentary for a wrongful death claim are annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.~~

6. Plaintiff Sean Smith is a resident and citizen of Louisiana, and claims damages as set forth below.

7. Upon information and belief, the Plaintiff sustained repetitive, traumatic sub-concussive and/or concussive head impacts during NFL games and/or practices. Upon information and belief, Plaintiff suffers from symptoms of brain injury caused by the repetitive, traumatic sub-concussive and/or concussive head impacts the Plaintiff sustained during NFL games and/or practices. Upon information and belief, the Plaintiff's symptoms arise from injuries that are latent and have developed and continue to develop over time.

8. The original complaint by Plaintiff in this matter was filed in the United States District Court for the Eastern District of Louisiana. If the case is remanded, it should be remanded to the United States District Court for the Eastern District of Louisiana.

9. Plaintiff claims damages as a result of [check all that apply]:

- ☒ Injury to Herself/Himself
- ☐ Injury to the Person Represented
- ☐ Wrongful Death
- ☐ Survivorship Action
- ☒ Economic Loss
- ☐ Loss of Services
- ☐ Loss of Consortium

10. Plaintiff reserves the right to object to federal jurisdiction.

11. Plaintiff brings this case against the following Defendants in this action [check all that apply]:

- ☒ Riddell, Inc.
- ☒ All American Sports Corp.
- ☒ Riddell Sports Group, Inc.
- ☒ BRG Sports, Inc.
- ☒ BRG Sports Holdings Corp.
- ☒ Easton-Bell Sports, LLC
- ☒ EB Sports Corp.
- ☒ BRG Sports, LLC

12. The Plaintiff wore one or more helmets designed and/or manufactured by the Riddell Defendants during one or more years Plaintiff played in the National Football League (“NFL”) and/or the American Football League (“AFL”).

13. Plaintiff played in ☒ the NFL and/or in ☐ the AFL during the following period of time 1987 - 1990 for the following teams: Chicago Bears, Dallas Cowboys, Tampa Bay Buccaneers, Los Angeles Rams and San Francisco 49ers.

14. Plaintiff retired from playing professional football after the 1990 season.

#### **CAUSES OF ACTION**

15. Plaintiff herein adopts by reference the following Counts of the Second Amended Master Administrative Long-Form Complaint Against Riddell Defendants, along with the factual allegations incorporated by reference in those Counts [check all that apply]:

- ☒ Count I (Negligence)

- ☒ Count II (Negligent Marketing)
- ☒ Count III (Negligent Misrepresentation)
- ☒ Count IV (Fraud)
- ☒ Count V (Strict Liability/Design Defect)
- ☒ Count VI (Failure to Warn)
- ☒ Count VII (Breach of Implied Warranty)
- ☒ Count VIII (Civil Conspiracy)
- ☒ Count IX (Fraudulent Concealment)
- ☐ Count X (Wrongful Death)
- ☐ Count XI (Survival Action)
- ☐ Count XII (Loss of Consortium)
- ☒ Count XIII (Punitive Damages under All Claims)
- ☒ Count XIV (Declaratory Relief: Punitive Damages)

16. Plaintiff asserts the following additional causes of action [write in or attach]:

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- A. An award of compensatory damages, the amount of which will be determined at trial;
- B. An award of economic damages in the form of medical expenses, out of pocket expenses, lost earnings and other economic damages in an amount to be determined at trial;
- C. For punitive and exemplary damages as applicable;

- D. For all applicable statutory damages of the state whose laws will govern this action;
- E. For declaratory relief as applicable;
- F. For an award of attorneys' fees and costs;
- G. An award of prejudgment interest and costs of suit; and
- H. An award of such other and further relief as the Court deems just and proper.

**JURY DEMANDED**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: November 28, 2017

Respectfully submitted,

s/ David B. Franco

David B. Franco (TX# 24072097)

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